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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/881,410	06/14/2001	Byron Y. Yafuso	PA235RE	8490
23596 7590 06/17/2009 QUALCOMM INCORPORATED 5775 MOREHOUSE DR. SAN DIEGO, CA 92121				
EXAMINER NGUYEN, BRIAN D				
ART UNIT 2416		PAPER NUMBER		
NOTIFICATION DATE 06/17/2009		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

09/881,410

Applicant(s)

YAFUSO ET AL.

Examiner

BRIAN D. NGUYEN

Art Unit

2416

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 April 2009.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36, 40, 41 and 43-81 is/are pending in the application.
4a) Of the above claim(s) 23-36, 45-50, 60-65 and 71-76 is/are withdrawn from consideration.
5) ☒ Claim(s) 1, 21 and 22 is/are allowed.
6) ☒ Claim(s) 2-20, 40, 41, 43, 44, 51-59, 66-70 and 77-81 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 14 June 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 4/9/09; 4/15/09.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

1. Amendment to the drawings not in compliance with 1.173. Amended figures must be identified as "Amended".
2. Amendment to the claims not in compliance with 1.173. Any changes relative to the patent being reissued which are made to the specification, including the claims, upon filing, or by an amendment paper in the reissue application, must include the following markings:
 - (1) The matter to be omitted by reissue must be enclosed in brackets; and
 - (2) The matter to be added by reissue must be underlined.

Election/Restrictions

3. This application contains claims 23-36, 45-50, 60-65, and 71-76 drawn to an invention nonelected without traverse in the reply filed on 10/1/08. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.
5. Claims 66-70 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with

which it is most nearly connected, to make and/or use the invention. The limitation "A signal-bearing medium tangibly embodying a program of machine-readable instructions" was not described in the specification.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 2-20, 54, 55, 59, 66-70, and 77-81 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 recites the limitation "said controller means" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 3 recites the limitation "said plurality of authorized telephone sets" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 4, line 2, it is suggested to replace "request signal" with "request signals" and in line 3, insert "of the multiplexing" after "the result".

Claim 5 recites the limitation "said controller means" in line 1 and "said plurality of authorized telephone sets" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 6 recites the limitation "said controller means" in line 1, "said authorized telephone sets" in line 3, and "said plurality of authorized telephone sets" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim 7 recites the limitation "said plurality of authorized telephone sets" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 8 recites the limitation "said plurality of authorized telephone sets" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 9 recites the limitation "said plurality of authorized telephone sets" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 10 recites the limitation "the private communication network" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claims 12-15 recite the limitation "said member users. There is insufficient antecedent basis for this limitation in the claim.

Claim 16 recites the limitation "the private communication network" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claims 18-20 recite the limitation "said active member users. There is insufficient antecedent basis for this limitation in the claim.

Claim 54 recites the limitation "the network controller" in line 4. There is insufficient antecedent basis for this limitation in the claim. Claim 54 should be dependent to claim 53 for proper dependency.

Claim 55 recites the limitation "the network controller" in line 4. There is insufficient antecedent basis for this limitation in the claim. Claim 54 should be dependent to claim 53 for proper dependency.

Claim 59 recites the limitation "the network controller" in line 1. There is insufficient antecedent basis for this limitation in the claim. Claim 54 should be dependent to claim 53 for proper dependency.

Claim 66 recites the limitation "the at least two other members" in line 8 and "the data frame" in line 10. There is insufficient antecedent basis for this limitation in the claim.

Claim 70 recites the limitation "the first member user" in line 5 and "the data frame" in line 10. There is insufficient antecedent basis for this limitation in the claim. Line 4, it is suggested to replace "speaking" with "speaker".

Claim 77 recites the limitation "the at least two other members" in line 7 and "the data frame" in line 9. There is insufficient antecedent basis for this limitation in the claim.

Claim 81 recites the limitation "the first member user" in line 4 and "the data frame" in line 10. There is insufficient antecedent basis for this limitation in the claim. Line 3, it is suggested to replace "speaking" with "speaker".

Claim Rejections - 35 USC § 101

8. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

9. Claims 66-70 and 77-81 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The method claims are not tied to a particular apparatus.

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

11. Claims 40, 44, 51-53, 59, 66-68, and 77-79 are rejected under 35 U.S.C. 102(e) as being anticipated by Kay et al (5,475,689).

Regarding claim 40, Kay discloses in a wireless communication system, a network call manager, comprising: a network controller (CAP, SIM, and STM in figure 2) operative to process and route data packets transmitted within the wireless communication system (see figure 1); and a push-to-talk controller (CAP, SIM, and STM in figure 2) operative to process and route push-to-talk requests and private network data packets (col. 7, lines 41-55).

Regarding claim 44, Kay discloses a wireless communication system, comprising: a network call manager for facilitating private communications simultaneously among a plurality of mobile users, at least some of the plurality of mobile users being members of a private network, the network call manager comprising: means for receiving a point-to-point transmission comprising a plurality of voice data packets (col. 2, lines 56-59 and CAP, SIM in figure 2) and a point-to-multipoint transmission comprising a plurality of private network data packets (col. 2, lines 56-59); means for directing point-to-point transmissions (CAP, SIM, and STM in figure 2); means for receiving a request for a point-to-multipoint transmission to the private network (see CAP, SIM, and STM in figure 2 and request processing in figure 5); means for directing the point-to-multipoint data packets to the private network in response to the request (see CAP, SIM, and STM in figure 2 and request processing in figure 5); and a private network of mobile stations operative to transmit point-to-point transmissions and point-to-multipoint transmissions (see

mobile station in figure 1 and point-to-point and point-to-multiple point communications in col. 2, lines 56-58).

Regarding claim 51, Kay discloses a network call manager for enabling push-to-talk (PTT) communications to a private communication network, comprising: an interface to a public switched telephone network (figure 1; STM in figure 2; col. 3, lines 44-49) and for receiving interleaved vocoder frames and PTT frames from a first member user (col. 7, lines 41-45); a switch (SIM-1 in figure 2) for providing the received vocoder frames to at least a second member user and a third member user; and a PTT controller (CAP in figure 2) for configuring the switch based on a PTT request contained in one or more of the PTT frames.

Regarding claim 52, Kay discloses establishing individual forward links with the second member user and the third member user, respectively, through the interface (see point-to-point in col 2, line 57).

Regarding claim 53, Kay discloses paging the second member user and the third member user after the PTT request is received (see dispatch setup in figure 5).

Regarding claim 59, Kay discloses authenticating a member user to the private communication network (col. 6, lines 59-60).

Regarding claims 66 and 77, Kay discloses a signal-bearing medium tangibly embodying a program of machine-readable instructions executable by a digital processing apparatus to perform a method for enabling push-to-talk (PTT) communications, the method comprising operations of: receiving at least one PTT frame and vocoder frames from a member of a PTT communication network through a public switched telephone network (see figure 1 for network configuration and figure 5 for processing a PTT request); granting a speaker privilege to the

member in response to a PTT request contained within the at least one PTT frame (see REV ASGN in figure 5); establishing at least one forward communication link with the at least two other members of the PTT communication network (see point-to-multipoint in col. 2, line 57); and providing the data frames from the member to the at least two other members of the PTT communication network through the at least one forward communication link (col. 7, lines 54-55).

Regarding claims 67 and 78, Kay discloses configuring a switch to route the vocoder frames to at least two other members of the PTT communication network (see SIM-1 in figure 2).

Regarding claims 68 and 79, Kay discloses authenticating the member prior to granting the speaker privilege (see col. 6, lines 59-60).

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kay in view of Fleischer et al (5,680,446).

Regarding claim 41, Kay discloses a pool provides address/identification of the mobiles (col. 2, line 56-col. 3, line 8 and col. 3, lines 31-32) but doesn't explicitly disclose an access number associated with a first private network. However, this feature is well known in the art.

Fleischer discloses an access number associated with a private network (see col. 14, lines 14-17). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to associate an access number with a private network as taught by Fleischer in the system of Kay so that a calling party can call members of a private network without knowing the access number of each of the members in the private network.

14. Claims 43, 58, 70, and 81 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kay in view of Grube et al (5,387,905).

Regarding claim 43, Kay does not specifically disclose push-to-talk communications are processed according to an associated priority of each push-to-talk communication. However, Grube discloses this feature (see col. 4, lines 44-61). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to process a call based on the priority as taught by Grube in the system of Kay in order to improve quality of service.

Regarding claims 58, 70, and 81, Kay does not specifically disclose a queue for storing a second PTT request from the second member user, the second member user being granted a speaking privilege after the speaking privilege is no longer held by the first member user. However, Grube discloses a queue for storing a second request (see col. 56-58). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to queue the request as taught by Grube in the system of Kay so that the request can be process when resource is available.

15. Claims 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kay in view of Danne et al (5,761,619).

Regarding claim 54, Kay discloses all the claimed subject matter as described in previous paragraphs except for a modem. However, Danne discloses the use of modems (col. 9, lines 9-12). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to use the modems as taught by Danne in the system of Kay in order to modulate/demodulate data.

16. Claims 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kay in view of Weiss (5,151,922).

Regarding claim 55, Kay discloses all the claimed subject matter as described in previous paragraphs except for a tone detector. However, Weiss discloses a tone detector (see 10 in figure 1). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to use a tone detector as taught by Weiss in the system of Kay in order to distinguish tone from other types of signals.

17. Claims 56-57, 69, and 80 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kay in view of Glaser (6,072,463).

Regarding claims 56-57, 69, and 80, Kay does not specifically disclose sending a list of current participating member users in a PTT communication to the first member user, the second member user, and to the third member user. However, notifying a participating member of other participating members in a conference call is well known in the art. Glaser discloses this feature (see col. 6, lines 39-45). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to send a list of current participating member users to participating member users as taught by Glaser in the system of Kay in order to notify and assist each member of the conference call managing the call.

Allowable Subject Matter

18. Claims 1 and 21-22 are allowed.
19. Claims 2-30 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Response to Amendment

20. For any error corrected, which is not covered by an oath or declaration, i.e., any error corrected after the filing of all oaths and declarations currently in the reissue application, applicant MUST submit a supplemental oath or declaration.

Conclusion

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRIAN D. NGUYEN whose telephone number is (571)272-3084. The examiner can normally be reached on 7:30-6:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost can be reached on (571) 272-7872. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

6/12/09
/Brian D Nguyen/
Primary Examiner, Art Unit 2416